

SETTLEMENT AGREEMENT AND RELEASE

I. PARTIES

This Settlement Agreement (“Settlement Agreement”) is made and entered into by Cardinal Health 100, Inc., an Indiana corporation (successor to Bindley Western Industries, Inc.) (hereinafter referred to as “Bindley”); Cardinal Health 110, Inc., a Delaware corporation (hereinafter referred to as “Cardinal 110”); and the United States of America (“United States”), acting through the United States Attorney’s Office for the Eastern District of Pennsylvania, on behalf of the United States Department of Defense (“Department of Defense”). The United States and the Department of Defense are hereinafter collectively referred to as “the United States.” Bindley, Cardinal 110, and the United States are hereinafter collectively referred to as “the Parties.”

II. RECITALS

A. Cardinal 110 is a Delaware corporation and wholesale pharmaceutical distributor headquartered in Ohio.

B. Bindley Western Industries, Inc. (“Bindley”) was a wholesale pharmaceutical distributor headquartered in Indiana. On February 14, 2001, Cardinal Health acquired Bindley.

C. Cardinal 110 and Bindley each entered into pharmaceutical prime vendor contracts with the Department of Defense. Under the contracts, Cardinal 110 and Bindley each agreed to acquire and distribute pharmaceutical products to Department of Defense medical treatment facilities (“MTFs”) within the region covered by the given contract (the “Prime Vendor Program”).

D. For the time period June 1, 1997 through December 31, 2000, the effective Prime Vendor Program contracts for Bindley were:

SP020094D7004
SP020094D7007
SP020094D7010
SP020095D7013
SP020096D7018
SP020097D7020
SP020098D7024
SP020099D7027
SP020099D7033
SP020099D7043
SP020099D7045
SP020000D7047
SP020000D7053
SP020000D7055
SP020000D7056
SP020000D7058
SP020001D7061
SP020001D7062
SP020001D7063
SP020001D7064
SP020001D7065
SP020001D7066

For the time period October 1997 through December 31, 2000, the effective Prime Vendor Program contracts for Cardinal 110 were:

SP020001D1605
SP020099D7028
SP020099D7030
SP020099D7034
SP020099D7036
SP020099D7039
SP020099D7044
SP020000D7048
SP020000D7052
SP020097D7077

The contracts referred to in paragraph D are referred to herein collectively as the “Relevant Prime Vendor Contracts.”

E. Under their respective Relevant Prime Vendor Contracts, Bindley and Cardinal 110 agreed not to charge MTFs more than the Distribution and Pricing Agreement (“DAPA”) price negotiated by the Department of Defense and drug manufacturers.

F. The United States contends that, between June 1997 and December 31, 2000, Bindley and Cardinal 110 charged the MTFs, and the United States paid, more than the DAPA price for certain pharmaceutical purchases under the Prime Vendor Program.

G. The conduct described in paragraphs E and F are hereinafter referred to as the “Covered Conduct.”

H. The United States contends that it has certain civil claims against Bindley and Cardinal 110 arising from the Covered Conduct, including potential claims under the Contract Disputes Act, 41 U.S.C. § 604, and common law doctrines described in Paragraph 5 of this Settlement Agreement.

I. Bindley and Cardinal 110 deny the contentions of the United States as set forth in paragraphs F and H.

J. This Settlement Agreement is neither a concession by the United States that its claims are not well founded, nor an admission by Bindley or Cardinal 110 of liability, which both Bindley and Cardinal 110 expressly deny.

K. In August 2004, Bindley and Cardinal Health each entered a tolling agreement attached hereto as Attachments A and B, respectively (the “Tolling Agreements”), with the United States relating to potential claims against Bindley and Cardinal 110 arising out of the Prime Vendor Program.

L. The Parties mutually desire to reach a full and final settlement concerning the Covered Conduct and to avoid litigation. Accordingly, in reliance upon the representations contained herein, and in consideration of the mutually negotiated promises, covenants, and obligations in this Settlement Agreement, and for good and valuable consideration, receipt of which is by each acknowledged, the Parties agree as follows:

III. TERMS AND CONDITIONS

1. **Inclusion of Recitals.** The aforementioned recitals are part of this Settlement Agreement.
2. **Definition of “Bindley.”** Throughout this Settlement Agreement, the term “Bindley” shall encompass Bindley Western Industries, Inc., Cardinal Health 100, Inc., as well as its subsidiaries, parent company (if any), divisions, predecessor and successor entities, and affiliates.
3. **Definition of “Cardinal 110.”** Throughout this Settlement Agreement, the term “Cardinal 110” shall encompass Cardinal 110, Inc. as well as its subsidiaries, parent company (if any), divisions, predecessor and successor entities, and affiliates.
4. **Monetary Consideration.** Within seven (7) business days from the Effective Date of this Settlement Agreement, Bindley will pay the United States the sum of FIVE MILLION DOLLARS (\$5,000,000.00) and Cardinal 110 will pay the United States the sum of FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00), for a total of FIVE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$5,500,000.00) (the “Settlement Amount”).

5. **Form of Payment.** Bindley and Cardinal 110 shall pay the Settlement Amount by electronic funds transfer pursuant to written instructions to be provided by the United States Attorney's Office for the Eastern District of Pennsylvania.

6. **United States' Release of Bindley and Cardinal 110.** Subject to the exceptions below, and conditioned upon the payment in full of the Settlement Amount set forth in paragraph 4, the United States hereby releases Bindley and Cardinal 110 from any civil or administrative monetary claim the United States has or may have arising on or before December 31, 2000, for the Covered Conduct, including but not limited to claims under the Contract Disputes Act, 41 U.S.C. § 604, and claims under common law theories, including but not limited to breach of contract, overpayment, payment by mistake, and unjust enrichment. The United States expressly reserves any claims against any entities and individuals other than as defined above in Paragraphs 2 and 3 of this Settlement Agreement.

7. **Exclusions.** Specifically excluded from the scope and terms of this Settlement Agreement are any and all:

(a) claims for the delivery of any deficient or defective products/services, for personal injury or property damage or for any consequential damages, and for liability under any express or implied product/service warranties;

(b) claims based on such obligations as are created by this Settlement Agreement;

(c) claims that the United States may have under the Internal Revenue Code, Title 26 of the United States Code;

(d) liability to the United States (or any agencies thereof) for any conduct other than that released herein;

(e) criminal liability; and

(f) any suspension or debarment determinations or actions of any federal agency.

8. **Limited Waiver of Defenses.** Bindley and Cardinal 110 waive and will not assert any defenses Bindley or Cardinal 110 may have to a criminal prosecution, if any, or administrative action, if any, relating to the Covered Conduct, which defenses are based in whole or in part on a contention that this Settlement Agreement bars a remedy sought in the event of any criminal prosecution or administrative action under either the Double Jeopardy Clause in the Fifth Amendment to the United States Constitution or the Excessive Fines Clause in the Eighth Amendment to the United States Constitution. Nothing in this paragraph or any other provision of this Settlement Agreement constitutes an agreement by the United States concerning the characterization of the Settlement Amount for purposes of the Internal Revenue laws, Title 26 of the United States Code.

9. **Bindley and Cardinal 110 Release of the United States.** Bindley and Cardinal 110 hereby release any and all claims of whatever kind against the United States arising on or before December 31, 2000, relating to the Prime Vendor Program.

10. **Costs.** The Parties agree to bear their own legal fees and other costs incurred in connection with this matter, including the preparation of or performance of this Settlement Agreement.

11. **Unallowable Costs.**

(a) **Unallowable Costs Defined:** All costs (as defined in the Federal Acquisition Regulation, 48 C.F.R. § 31.205-47) incurred by or on behalf of Bindley and Cardinal 110, and their present or former officers, directors, employees, shareholders, and agents in connection with:

- (i) the matters covered by this Settlement Agreement;
- (ii) the United States' audit(s) and civil investigation(s) of the matters covered by this Settlement Agreement;
- (iii) Bindley's and Cardinal 110's investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil investigation(s) in connection with the matters covered by this Settlement Agreement (including attorney's fees);
- (iv) the negotiation and performance of this Settlement Agreement; and
- (v) the payments Bindley and Cardinal 110 make to the United States pursuant to this Settlement Agreement, including costs and attorneys fees, are "Unallowable Costs" for government contracting purposes (hereinafter referred to as "Unallowable Costs").

(b) **Future Treatment of Unallowable Costs:** Unallowable Costs will be separately determined and accounted for by Bindley and Cardinal 110, and Bindley and Cardinal 110 shall not charge such Unallowable Costs directly or indirectly to any contracts with the United States.

(c) Treatment of Unallowable Costs Previously Submitted for Payment:

Bindley and Cardinal 110 further agree that within 90 days of the Effective Date of this Settlement Agreement they shall identify any Unallowable Costs (as defined in this Paragraph) included in payments previously sought by Bindley or Cardinal 110 or any of their subsidiaries or affiliates from the United States. Bindley and Cardinal 110 agree that the United States, at a minimum, shall be entitled to recoup from Bindley and Cardinal 110 any overpayment plus applicable interest and penalties as a result of the inclusion of such Unallowable Costs in any such payments. Any payments due shall be paid to the United States pursuant to the direction of the Department of Justice and/or the affected agencies. The United States reserves its rights to disagree with any calculations submitted by Bindley or Cardinal 110 or any of its subsidiaries or affiliates regarding any Unallowable Costs included in payments previously sought by Bindley or Cardinal 110, or the effect of any such Unallowable Costs on the amount of such payments.

(d) Future Audits: Nothing in this Settlement Agreement shall constitute a waiver of the rights of the United States to audit, examine, or re-examine Bindley and Cardinal 110's books and records to determine that no Unallowable Costs have been claimed in accordance with the provisions of Paragraph 11.

12. **Modification of Tolling Agreements.** The Parties modify, stipulate, clarify, and acknowledge that the Tolling Agreements described in Paragraph K of this Settlement Agreement are limited to only those investigations or potential claims related to the Covered Conduct, and that the Tolling Agreements do not affect the Parties' respective legal rights with respect to any investigation or potential claims by the United States other than for the Covered Conduct.

13. **Termination of Tolling Agreements.** One day following the Effective Date of this Settlement Agreement, the Tolling Agreements described in Paragraph K of this Settlement Agreement shall be terminated and are of no further force or effect.

14. **Integrated Agreement.** This writing constitutes the entire agreement of the Parties with respect to the subject matter of this Settlement Agreement. There are no other agreements, understandings, representations, warranties, inducements, or considerations, except as expressly stated herein.

15. **Modification.** This Settlement Agreement may not be modified, amended or terminated except by a written agreement signed by the Parties specifically referring to this Settlement Agreement.

16. **Reservation of Rights.** The rights of the Parties not expressly released in this Settlement Agreement are reserved.

17. **Governing Law and Venue.** This Settlement Agreement is governed by the laws of the United States. The Parties agree that the exclusive jurisdiction and venue for any dispute arising between and among the Parties under this Settlement Agreement is the United States District Court for the Eastern District of Pennsylvania.

18. **Construction of Settlement Agreement.** The Parties represent that this Settlement Agreement is freely and voluntarily entered into without any degree whatsoever of duress or compulsion. No provision of this Settlement Agreement shall be construed against any party by reason of such party having drafted such provision of this Settlement Agreement.

19. **Authority to Execute.** Each person who signs this Settlement Agreement warrants that he or she is duly authorized to do so, as does the party on behalf of which such person signs.

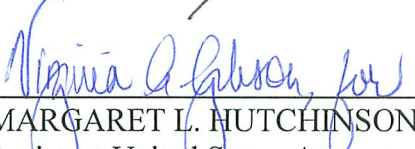
20. **Binding Effect.** This Settlement Agreement is binding on each of the Parties' successors, transferees, heirs and assigns, if any.

21. **Effective Date.** This Settlement Agreement is effective on the date of the last signature to it ("Effective Date"). Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Settlement Agreement.

22. **Public Disclosure.** The parties consent to the public disclosure of this Settlement Agreement.

FOR THE UNITED STATES OF AMERICA

BY:  6-30-10
ZANE DAVID MEMEGER (date)
United States Attorney

BY:  6-30-2010
MARGARET L. HUTCHINSON (date)
Assistant United States Attorney
Chief, Civil Division

 6/30/10
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FOR UNITED STATES DEPARTMENT OF DEFENSE

BY:

M. Susan Chadick (date)
Deputy General Counsel
Defense Logistics Agency
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8725 John J. Kingman Road, Suite 1644
Fort Belvoir, VA 22060-6221

**FOR CARDINAL HEALTH 100, INC., SUCCESSOR
TO BINDLEY WESTERN INDUSTRIES, INC.**

BY: STJ 6.30.10
(date)

Stephen T. Falk
Printed

FVP, General Counsel & Secretary
Title

FOR CARDINAL HEALTH 110, INC.

BY: STJ 6.30.10
(date)

Stephen T. Falk
Printed

FVP, General Counsel & Secretary
Title

FOR UNITED STATES DEPARTMENT OF DEFENSE

BY: *Susan Chadick* 6/29/2010
M. Susan Chadick (date)
Deputy General Counsel
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8725 John J. Kingman Road, Suite 1644
Fort Belvoir, VA 22060-6221

**FOR CARDINAL HEALTH 100, INC., SUCCESSOR
TO BINDLEY WESTERN INDUSTRIES, INC.**

BY: _____
(date)

Printed

Title

FOR CARDINAL HEALTH 110, INC.

BY: _____
(date)

Printed

Title